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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

20-433

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Application Number

09/785,438

Filed

2/20/2001

First Named Inventor

SMITH

Art Unit

2143

Examiner

AVELLINO, J.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 36,457

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

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Typed or printed name

202-261-1020

Telephone number

November 22, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐

*Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/785,438

Filed: February 20, 2001

Group Art Unit: 2143

Examiner: Avellino, Joseph E.

Atty Docket No.: 20-433

In re Patent Application of:

SMITH

Title: **INDIVIDUALIZED NETWORK INFORMATION SERVER**

November 22, 2006

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Final Office Action dated August 24, 2006, please enter the following remarks in the subject application:

The Examiner continues to frustrate the Applicants with a rejection that allegedly finds the claimed features within the cited prior art, combines the elements from the cited prior art without consideration for their use within the cited prior art, combines the elements from the prior art to recreate the claimed features without suggestion within the cited prior art and fails to provide any real motivation why one skilled in the art would modify the primary reference.

Moreover, the Examiner ignored Applicants' arguments filed August 1, 2006, with the Examiner only responding to one of Applicants' arguments, which the Applicants refute below. Moreover, the Examiner references new prior art to reject the claims that is not formally used in the rejections, which the Applicants have not had an opportunity to address in a Non-Final Office Action. Thus, the Finality of the Office Action dated August 24, 2006 was improper and must be withdrawn.



Claims 1-47 over Shultz in view of Takahashi, Hawkins, Katariya, Reed, Zirngibl and von-Bultzingloewen

In the Office Action, claim 1 was rejected under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent No. 6,453,339 to Shultz et al. ("Shultz") in view of U.S. Patent No. 6,442,589 to Takahashi et al. ("Takahashi"), in view of U.S. Patent No. 6,389,421 to Hawkins et al. ("Hawkins"), and further in view of U.S. Patent Application Pub. No. 2002/0091789 ("Katariya"), claim 22 was rejected under 35 U.S.C. §103(a) as allegedly being obvious over Shultz in view of Takahashi, Hawkins, Katariya, and further in view of U.S. Patent No. 6,088,717 to Reed et al. ("Reed"), claim 26, 30 and 31 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Shultz in view of Takahashi and Hawkins, Katariya and further in view of U.S. Patent No. 6,606,596 to Zirngibl et al. ("Zirngibl"), and claims 35-38 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Shultz in view of Takahashi, Hawkins and Zirngibl, and further in view of Active Information Delivery in A COBRA-Based Distributed Information System to von-Bultzingloewen ("von-Bultzingloewen"). The Applicants respectfully disagree.

Claims 1-47 recite a user object module that is implementable as an individual thread to aggregate services for an individual end-user.

The Examiner acknowledged that Takahashi was relied on to disclose the transfer of information from the WWW to a user's computer and not relied on to disclose use of threads (see Office Action, pages 3 and 4).

The Examiner failed to address, much less refute, Applicants' argument on page 15 of the Response filed August 1, 2006 that the Examiner failed to provide motivation to modify Shultz. Applicants pointed out that the motivation benefit the Examiner relies on is achieved through Hawkins' implementation of a plurality of processors. The Examiner has failed to provide motivation why one of ordinary skill in the art would further modify Shultz to implement a plurality of processors that is required to achieve the motivational benefit that is relied on by the Examiner to modify Shultz with Hawkins that is not achieves through simply modifying Shultz to use threads.

The Examiner agreed in the Response to Arguments section of the Office Action that Applicants have not defined what is meant by “services”, and as such the claims are given a broadest interpretation in the art (see Response to Arguments section of the Office Action dated August 24, 2006). Although Applicants do not spell out what “services” are, the entire limitation must read within context, not simply one word. Applicants’ entire claimed feature is to aggregate services for an individual end-user. Hawkins’ threads are used for watermarking. Hawkins’ thread to perform watermark for a user is NOT performing any type of aggregation of services for a user, as recited by claim 1.

The Examiner now provides NEW prior art to support the Examiner’s contention that a server can be implemented as an individual thread is well known. The Examiner relied on U.S. Patent No. 6,377,570 to Vaziri (“Vaziri”), which was improper under a Final Office Action as discussed above. Moreover, even if Vaziri discloses what the Examiner alleged, implementation of a web server an individual thread still fails to disclose aggregation of services for a user with a thread, as recited by claim 1.

Moreover, the Applicants pointed out on page 16 of the Response filed August 1, 2006 that Shultz’s invention is directed toward providing a content server that provides channels that are created for individual users (see col. 13, lines 2-4). Shultz’s invention is able to perform such functions WITHOUT the use of threads. Thus, even if Hawkins’ thread were used to aggregate services for an individual user, which it is not as discussed above, the Examiner has STILL failed to provide motivation why one skilled in the art would modify Shultz to use threads to perform the same function that Shultz is able to perform without threads.

Katariya mentions use of a thread within a single paragraph. Katariya discloses use of threading in paragraph [0032] with a “caching scheme” NOT disclosing using threading for anything related to Katariya’s “clips” as alleged by the Examiner, much less disclose use of threads for a user object module that is implementable as an individual thread to aggregate services for

an individual end-user, as recited by claim 1. The Examiner failed to address, much less refute this argument.

Reed was relied on to disclose a communication system that allows a user to receive an e-mail notification from a database agent monitoring the database when a new entry or a certain condition has been made in that database at col. 6, lines 62-66 (see Office Action, page 19). Reed was further relied on to disclose that a data exchange event is initiated either manually by the consumer or automatically at col. 76, lines 8-9 (see Office Action, page 19).

Reed discloses information contained in a provider database that is transferred and used in communications relationships with different consumers (see col. 9, lines 2-4). The association information is used to selectively distribute information and information updates (see Reed, col. 9, lines 6-8). A distribution server collects information from a provider program and a consumer program (see Reed, Fig. 1).

Thus, Reed discloses selective distribution of information between a provider computer, a consumer computer and a distribution server. Reed fails to disclose or suggest anything related to using threads for aggregation, much less disclose or suggest a user object module that is implementable as an individual thread to aggregate services for an individual end-user, as recited by claim 22.

Zirngibl discloses a system and method of creating sound files for a destination device based on user criteria, e.g., a report of the result of a favorite sports team game (See Fig. 3a; col. 5, lines 55-65). Thus, Zirngibl's user specifies a set of criteria for locating and downloading a desired piece of information from a source storing the sound file. Zirngibl fails to disclose or suggest a system and method relying on threads, much less a user object module that is implementable as an individual thread to aggregate services for an individual end-user, as recited by claims 26, 30 and 31.

As discussed in the Response filed August 1, 2006, von-Bultzingloewen fails to disclose or suggest the use of threads for any reason, much less disclose or suggest a user object module that is implementable as an

individual **thread** to **aggregate** services for an individual end-user, as recited by claims 35-38.

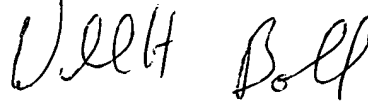
Thus, Shultz in view of any combination of Takahashi, Hawkins, Katariya, Reed, Zirngibl and von-Bultzingloewen would still fail to disclose, teach or suggest a user object module that is implementable as an individual **thread** to **aggregate** services for an individual end-user, as recited by claims 1-47.

Accordingly, for at least all the above reasons, claims 1-47 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,



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